

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

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|--|---|--|
| <b>RICHARD LEE TABLER,</b>                   | : |  |
|  | : |  |
|  | : |  |
| <b>Petitioner,</b>                           | : |  |
|  | : | <b>CIVIL ACTION NO. W-10-CA-034-RP</b> |
| <b>v.</b>                                    | : |  |
|  | : |  |
|  | : | <b>CAPITAL HABEAS CORPUS</b>           |
| <b>BOBBY LUMPKIN,</b>                        | : |  |
| <b>Director, Correctional Institutions</b>   | : |  |
| <b>Division Texas Department of Criminal</b> | : | <b>HON. ROBERT PITMAN, U.S.D.J.</b>    |
| <b>Justice,</b>                              | : |  |
|  | : |  |
| <b>Respondent.</b>                           | : |  |
|  | : |  |

**PETITIONER’S UNOPPOSED MOTION  
FOR EXTENSION OF TIME AND PAGE LIMIT  
FOR REPLY IN SUPPORT OF MOTION**

**TO ALTER OR AMEND JUDGMENT  
AND  
TO EXPAND CERTIFICATE OF APPEALABILITY**

Petitioner Richard Lee Tabler, through undersigned counsel and without opposition from the State, respectfully requests that this Court grant him an additional seven days in which to file a reply in support of his motion (1) to alter or amend judgment pursuant to Rule 59 and (2) to expand the certificate of appealability. He also requests an expansion of the page limit to fifteen pages. In support of this Motion, Petitioner states as follows:

1. This Court denied Mr. Tabler's petition for a writ of habeas corpus on June 10, 2021. Mr. Tabler filed his motion to alter or amend judgment pursuant to Rule 59 of the Federal Rules of Civil Procedure, or to expand the certificate of appealability, on July 7, 2021. The Respondent filed a response on September 3, 2021.
2. Under Civil Rule 7 of the Local Court Rules for the Western District of Texas, any reply is due 7 days after the filing date of the response. Under the rule, Petitioner's reply would be due on September 10, 2021. A reply is limited to 10 pages. *See* Local Civ. R. CV-7(E)(2), (3).
3. The Respondent's response comprises a multi-faceted thirty-page argument that addresses both procedural issues of default and waiver and the merits of multiple claims. The responsibilities of Petitioner's counsel in other capital cases will prevent counsel from preparing a professionally adequate response within the rule's seven-day period. Likewise, the rule's ten-page limit will constrain the ability of Petitioner's counsel to address all arguments requiring replies in a professionally adequate manner.
4. Petitioner accordingly requests an additional seven days, until September 17, and an additional five pages to prepare a reply that will best assist the Court to decide the issues presented.

5. On September 7, 2021, Petitioner's counsel, Shawn Nolan, exchanged email messages with Respondent's counsel, Cara Hanna, who indicated that the Respondent has no objection to this motion.

### **CONCLUSION**

For the reasons above, the Court should grant Petitioner a seven-day extension of time, to September 17, 2021, to file his reply, and expand the page limitation from ten to fifteen pages.

Respectfully submitted,

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Dated: September 7, 2021

/s/ Peter J. Walker  
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## **CERTIFICATE OF SERVICE**

I hereby certify that on this date, I served the foregoing Motion for a seven-day extension of time and a five-page expansion of the page limitation on the following by operation of the electronic case filing system:

Cara Hanna  
Assistant Attorney General  
Office of the Attorney General of Texas  
Post Office Box 12548  
Austin, Texas 78711-2548

/s/ Peter J. Walker  
Peter J. Walker

Dated: September 7, 2021